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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Benjamin E. Urcia
Bacon & Thomas
Fourth Floor
625 Slater Lane
Alexandria, VA 22314-1176

In re Application of: Vedder)
Application No. 09/673,658) DECISION ON PETITION TO
Attorney Docket No. JEK/VEDDER) WITHDRAW HOLDING OF
Filed: January 4, 2001) ABANDONMENT UNDER 37 CFR
For: METHOD FOR AUTHENTICATING) §1.181
A CHIP CARD IN A MESSAGE)
TRANSMISSION NETWORK)

This is a decision on the petition to withdraw the holding of abandonment of the instant application, filed on March 23, 2005, under 37 CFR §1.181.

The Petition is **GRANTED**.

The instant application became abandoned for failure to timely respond to the non-final Office action mailed March 29, 2004. A Notice of Abandonment was mailed on March 17, 2005. A grantable petition must include a copy of the response and proof of timely filing of the response. A stamped post card receipt with an indication of the documents filed therewith, in accordance with MPEP § 203.08 and § 508, is acceptable. No fee is required.

A review of the file record shows that a non-final Office action was mailed on March 29, 2004, setting a three month shortened statutory period for response. The response, indicated by Applicant to have been filed on June 29, 2004, is not of record in the application file and cannot be located.

Applicant has provided evidence in the petition of March 23, 2005 that includes: "a complete copy of the papers as filed"; as well as an OIPE stamped receipt card identifying the filing of an amendment/response in the USPTO with a receipt date of June 29, 2004, in case SN 09/673,658. The "complete copy" of the papers is taken to be a true and complete copy of the papers, as filed on June 29, 2004.

MPEP § 203.08 states in relevant part:

< A >stamped< postcard receipt for replies to Office actions, adequately and specifically identifying the papers filed, will be considered prima facie proof of receipt of such papers. >See MPEP § 503.< Where such proof indicates the timely filing of a reply, the submission of a copy of the postcard with a copy of the reply will ordinarily obviate the need for a petition to revive.

In addition, MPEP § 503 states in part:

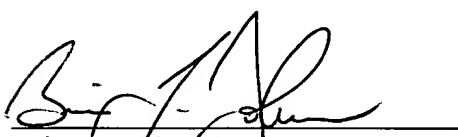
The identifying data on the postcard should be so complete as to clearly identify the item for which >a< receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify **the type of paper being filed**, e.g., new application, affidavit, **amendment**, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., **and the number of pages being submitted [emphasis added]**. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

Applicant is reminded of the requirements of MPEP § 503 to ensure future submissions of proof of filing are complete with all available information of the identifying data on the postcard or receipt card, as outlined above, to ensure a complete and proper *prima facie* showing of proof of filing of such papers.

In addition, it is noted that the Examiner followed proper Office practice and procedures by telephoning Applicant's Attorney, J. Earnest Kenney (Reg. # 19,179) on 3/14/05 who confirmed that no response to the March 29, 2004 Office action had been filed (see Notice of Abandonment, PTOL-1432 box 7). In the future, Applicant should comment and/or clarify this type of discrepancy as to the (instant) application prosecution, in the petition filed.

Since all of the criteria set forth above have been met, the petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to **WITHDRAW** the holding of abandonment (restore the instant application to pending status), and to **ENTER THE RESPONSE** (copy, filed with the instant petition, dated March 23, 2005). The application will then be forwarded to the examiner for prompt action on the merits.



Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3595